

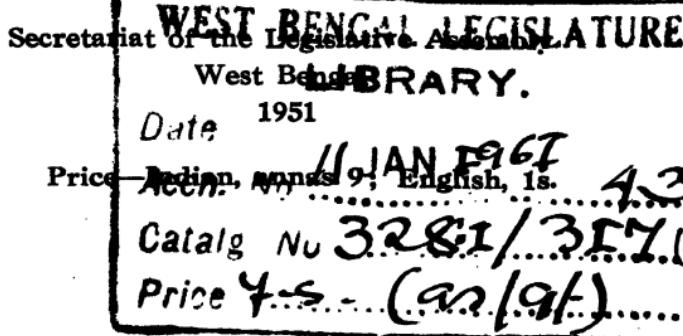
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Decisions of Speakers
of the
Legislative Assembly
Bengal

VOLUME III

*Decisions of Mr. Speaker Gladding
Mr. Speaker Nurul Amin and Mr. Deputy
Speaker Tafazzal Ali*

1946—1947



328.1
WES/CLAS/N3

**To
The Speaker**

**In whose hands the high tradition
of the Chair rests**

PREFACE

The third volume of the Decisions of Speakers of the Legislative Assembly, Bengal, containing the rulings of Mr. Speaker Nurul Amin and his Deputy Mr. Tafazzal Ali is now published. On the first day of the sitting after dissolution Mr. Gladding acted as Speaker and one ruling of his also appears in this volume. This volume has also been compiled by Sj. Charu C. Chowdhuri, Special Officer of the West Bengal Legislative Assembly.

A. R. MUKHERJEA,
Secretary, West Bengal Legislative Assembly.

The 16th October, 1951.



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PART I

Decisions of Mr. Speaker Gladding.

14th May, 1946

And

Mr. Speaker Nurul Amin.

14th May, 1946 to 15th August, 1947.

Decision of Mr. Speaker

Gladding

SPEAKER, CONTINUANCE IN OFFICE.

After the dissolution of the Assembly the Speaker continues in office till the House after the next General Election assembles at its first meeting.

Progs: 14th July, 1946, Vol. LXX, p. 4.

Decisions of Mr. Speaker

Nurul Amin

ADJOURNMENT MOTION.

1. ADMISSIBILITY.

Anticipation of matter already fixed for discussion.

An adjournment motion must not anticipate a matter which has been previously appointed for consideration or with reference to which a notice of motion has been previously given. Where a resolution was admitted and a date had already been fixed for its discussion an adjournment motion on the same subject matter was ruled out of order.

Progs: 24th July, 1946, Vol. LXXI, No. 1, p. 24.
Consent of Speaker—Reconsideration of admissibility.

Even after the Speaker has given his consent to an adjournment motion, he can reconsider the admissibility of the motion in the House.

Progs: 18th April, 1947, Vol. LXXII, No. 3, pp. 23 and 26.

Discussion of matter otherwise possible.

When an opportunity will arise for the discussion of a subject matter during the debate on the Budget, an adjournment motion will not be allowed.

Progs: 14th March, 1947, Vol. LXXII, No. 2, p. 188.

Discussion on day subsequent to that on which motion moved.

It is a very dangerous practice not to take up the adjournment motion on the very day it is moved. The essence of the adjournment motion is that the matter sought to be brought before the House is so urgent that it cannot wait and it is more important than the business fixed on the Order Paper for the day. If it appears that the adjournment motion is not so important as to take the place of the business on the Order Paper for the day, the adjournment motion must necessarily fail and in such circumstances the Speaker who decides the relative importance of the matter would refuse his consent although the motion may be otherwise admissible. If during the Budget session members get ample opportunities to ventilate their grievances through motions and through resolutions which can be moved on non-official days, the Chair will see that the

day to day business of the House is not interfered with unless the Chair is satisfied that a grave situation has arisen which must be disposed of at once and which brooks no delay.

Progs: 17th July, 1946, Vol. LXXI, No. 1, p. 14.

Adjournment motion, scope of.

Adjournment motions are tabled for two purposes—(1) with a view to censure the ministry and (2) with a view to focuss the attention of the House to specific events of urgent public importance. When the general discussion on the Budget is going on an adjournment motion is brought for the second purpose. The purpose may well be served by focussing in course of the discussion of the Budget the attention of the House and of the Ministry to the particular act of the Government giving rise to the cause of the adjournment motion.

Progs: 1st August, 1946, Vol. LXXI, No. 7, p. 165.

One adjournment motion admitted—Other adjournment motions, effect on.

When one adjournment motion is admitted, other adjournment motions of which notices may have been given fall through.

Progs: 18th April, 1947, Vol. LXXII, No. 3, p. 27.

Regarding individual questions.

Individual questions cannot form the subject matter of an adjournment motion.

Progs: 24th April, 1947, Vol. LXXII, No. 3, p. 197.

ADDRESS TO GOVERNOR.

Motion for address to Governor—procedure.

A motion for presenting an address to the Governor is a matter which comes under the general category of motions and not under the category of resolutions and as such the provision of the rule regarding resolutions does not apply in such a case.

Progs: 26th July, 1946, Vol. LXXI, No. 1, pp. 81, 89.

AMENDMENT.

Raising matter already decided.

When an amendment is sought to be moved in regard to a matter similar to a matter about which the House has already come to a decision, the amendment is out of order.

Progs: 8th May, 1947, Vol. LXXII, No. 3, pp. 458 and 461.

BILL.

1. AMENDMENT.

Amendment moved by Parliamentary Secretary.

A Parliamentary Secretary is entitled to move an amendment to a Government Bill.

Progs: 3rd August, 1946, Vol. LXXI, No. 2, p. 47.

Amendment, scope of.

An amendment seeking to insert a new clause in a Bill will be in order if it can be shown that the proposed section is within the scope of the Bill as determined with reference to its preamble, its aims and objects and having due regard to the citations and provisions in the Bill itself.

Progs: 9th May, 1947, Vol. LXXII, No. 3, p. 473.
For full Ruling see p. 32.

2. PROCEDURE,

Introduction, opposition to.

It is neither permissible under the rules nor is it the convention of the House to oppose a Government Bill during its introduction stage.

Progs: 27th July, 1946, Vol. LXXI, No. 1, p. 102.
2

Member proposing amendment to a clause whether can oppose the whole clause.

It is not proper for a member who has tabled an amendment to oppose the whole clause as he has accepted the principle of the clause. ,

Progs: 7th May, 1947, Vol. LXXII, No. 3, p. 423.

BUDGET.

1. CUT MOTIONS.

Cut motions—procedure.

The best procedure would be that all cut motions should be moved without any speech and after the cut motions are moved the main demand and the cut motions will be open for discussion.

Progs: 14th August, 1946, Vol. LXXI, No. 2, p. 182.

Cut motions, moving of.

All the cut motions should be moved first without any speech and then discussion will follow.

Progs: 25th March, 1947, Vol. LXXII, No. 2, p. 474.

Cut motions by members belonging to Government Party.

There is no bar for a member belonging to the Government Party to move a cut motion.

Progs: 12th March, 1947, Vol. LXXII, No. 2, p. 127.

2. PRACTICE.

Budget Speech, distribution of.

Copies of Budget Speech are distributed just as the Finance Minister rises to deliver his speech.

Progs: 17th February, 1947, Vol. LXXII, No. 1, p. 271.

3. SUPPLEMENTARY BUDGET.

Supplementary budget presented after expenses incurred.

Supplementary estimates should be presented before the House before incurring any expenditure. Having regard to the practice obtaining previously, a supplementary estimate was allowed to be presented after the expenditure had been incurred.

Progs: 11th March, 1947, Vol. LXXII, No. 2, p. 101.

Supplementary estimate on grant for which no original estimate submitted.

There can be no objection to a supplementary estimate to be presented in respect of a head of expenditure for which no original grant was demanded.

Progs: 11th March, 1947, Vol. LXXII, No. 2, p. 101.

[For Full Ruling, see page 27.]

DEBATE.

Confidential Document, reference to.

When it is claimed that a document is confidential and cannot be produced before the House it is for the Government to decide whether it is really so or not.

Progs: 25th April, 1947, Vol. LXXII, No. 3, p. 227.

Document, reference to.

When a member reads from a document, the document must be produced before the Speaker.

Progs: 20th September, 1946, Vol. LXXI, No. 3, p. 141.

Names of persons, mention of.

In a debate it is better to avoid mentioning names as far as possible. An officer may be mentioned by his official designation.

Progs: 13th August, 1946, Vol. LXXI, No. 2, p. 168.

Persons outside House, reference to.

Strong language should not be used against those persons who are not present in the House and who may not have any chance of defending themselves.

Progs: 22nd April, 1947, Vol. LXXII, No. 3, p. 145.

MOTION.

Motion of one member moved by another.

A motion for the circulation of a Bill for eliciting public opinion was allowed to be moved by a member of the same party other than the member who give notice of the motion.

Progs: 3rd August, 1946, Vol. LXXI, No. 2, p. 38.

PARLIAMENTARY ETIQUETTE.

Crossing between Speaker and member speaking.

It is not permissible for a member to cross between the Speaker and a member speaking.

Progs: 31st July, 1946, Vol. LXXI, No. 1, pp. 123, 171, 177.

QUESTIONS.

1. ADMISSIBILITY.

Question regarding matter within cognizance of Central Government.

Questions regarding matters within the cognizance of the Central Government such as railway matters are admitted but members cannot expect a very detailed information in regard to them because the Provincial Government has to obtain such information from the Central Government.

Progs: 25th April, 1947, Vol. LXXII, No. 3, p. 237.

Subject matter of question within cognizance of Central Government.

Simply because a particular subject of a question refers to the Central Government, the question regarding the same need not necessarily be disallowed for such information may be supplied by the Provincial Government, e.g., information about railway matters which are Government of India subjects may be supplied by the Provincial Government and in fact are so supplied.

Progs: 20th April, 1947, Vol. LXXII, No. 3, p. 121.

Question based on newspaper report.

Questions cannot be put on the basis of newspaper reports.

Progs: 17th September, 1946, Vol. LXXI, No. 3, p. 71.

Based on newspaper reports.

A question based on a newspaper report cannot be allowed.

Progs: 23rd April, 1947, Vol. LXXII, No. 3, p. 167.

Question regarding matter available in public documents.

A question whether a Minister is aware of the provisions of a certain Act is not admissible.

Progs: 24th April, 1947, Vol. LXXII, No. 3, p. 154.

2. GENERAL.

Minister, presence of.

Ministers ought to be present in the House to answer questions.

Progs: 21st April, 1947, Vol. LXXII, No. 3, p. 121.

Power of Speaker to compel answer.

The Speaker has no power to compel the Government to answer a question.

Progs: 26th September, 1946, Vol. LXXI, No. 3, p. 310.

Speaker, power of, to compel answer.

The Speaker has no power to compel the Government to give answer to a question within a particular period.

Progs: 19th April, 1947, Vol. LXXII, No. 3, pp. 56 and 57.

Speaker, power of, to compel answer in a particular manner.

The Speaker has no power to compel the answering of a question in a particular manner.

Progs: 18th February, 1947, Vol. LXXII, No. 1, p. 318.

3. PROCEDURE.

Answer by Parliamentary Secretary.

A question can be answered by a Parliamentary Secretary.

Progs: 15th March, 1947, Vol. LXXII, No. 2, p. 216.

Lapse of.

All questions put before the dissolution of a House lapse on the dissolution.

Progs: 3rd August, 1946, Vol. LXXI, No. 2, p. 55.

4. SUPPLEMENTARY QUESTION.

Frivolous question, disallowance of.

When the Speaker considers a question to be frivolous he may disallow the question.

Progs: 22nd March, 1947, Vol. LXXII, No. 2, p. 414.

SELECT COMMITTEE.

Chairman—other than the Minister-in-charge.

Some person other than the Minister-in-charge of a Bill can be the Chairman of a Select Committee.

Progs: 18th April, 1947, Vol. LXXII, No. 3, p. 29.

UNPARLIAMENTARY LANGUAGE.

“অন্যপরম্পরার ছোকুরা”

The expression “অন্যপরম্পরার ছোকুরা” is unparliamentary.

Progs: 23rd September, 1946, Vol. LXXI, No. 3, p. 244.

“Fifth columnist.”

The word “fifth columnist” is unparliamentary.

Progs: 13th August, 1946, Vol. LXXI, No. 2, p. 163.

“Rogue.”

The word “rogue” in reference to an officer is unparliamentary.

Progs: 21st March, 1947, Vol. LXXII, No. 2, p. 393.

“Traitor,” “Quisling,” “Fifth Columnist.”

The word “Fifth Columnist” when used in reference to a member is unparliamentary. The words “Quisling” and “Traitor” are also unparliamentary.

Progs: 14th August, 1946, Vol. LXXI, No. 2,
p. 182.

PART II

Decision of Mr. Deputy Speaker Tafazzal Ali.

14th May, 1946 to 15th August, 1947.

Decision of Mr. Deputy Speaker Tafazzal Ali

ADJOURNMENT MOTIONS.

One adjournment motion admitted—effect on other adjournment motions.

When out of several adjournment motions, notices of which have been given, one is selected to be moved, the others fall through.

Progs: 6th February, 1947, Vol. LXXII, No. 1,
pp. 32-33.

BILL.

Amendments, moving of.

Amendments which are of a general nature should be moved first and after the amendments are moved discussion of general principles will follow.

Progs: 1st March, 1947, Vol. LXXII, No. 2, p. 24.

Bill to continue Ordinances described in schedule.

When a Bill sought to continue the provisions of certain Ordinances including them in a schedule, it was held that the practice was not a healthy one but such a procedure was not out of order.

Progs: 12th February, 1947, Vol. LXXII, No. 1, p. 157.

Introduction—Government Bill—Opposition to introduction.

As in the case of Government Bills there is no motion to introduce a Bill, there cannot be any opposition to the introduction of the same.

Progs: 11th February, 1947, Vol. LXXII, No. 1, p. 127.

DEBATE.

Names of officers, mention of.

Names of officers should not be mentioned in the course of a debate.

Progs: 6th February, 1947, Vol. LXXII, No. 1, p. 46.

DIVISION.

Members coming into Chamber before division closed.

Members are not entitled to come into the Chamber before the division has not been declared as closed.

Progs: 1st March, 1947, Vol. LXXII, No. 2, p. 32.

ORDINANCES.

Bill introduced before resolution on Ordinance discussed.

Introduction of a Bill to continue an Ordinance before a resolution disapproving the Ordinance has been discussed is not out of order.

Progs: 12th February, 1947, Vol. LXXII, No. 1, pp. 157, 160.

PRIVILEGE.

Withholding of report of Committee from House.

Where in pursuance of a resolution of the House a Committee of Enquiry was appointed by the Government but the report of the

Committee was not placed before the House it was held that it raised a matter of privilege and the matter was referred to a Committee of Privileges.

Progs: 11th February, 1947, Vol. LXXII, No 1, p. 108.

QUESTIONS.

Questions based upon press reports.

Press reports cannot be the basis of a question.

Progs: 7th February, 1947, Vol. LXXII, p. 73.

Speaker, power of, to compel answer.

The Speaker has no power to compel the answer to a question to be given in a particular way.

Progs: 7th February, 1947, Vol. LXXII, No. 1, p. 64.

Speaker, power of, to compel answer.

Speaker has no power to compel Government to give answer to a question.

Progs: 28th September, 1946, Vol. LXXI, No. 3, p. 365.

Speaker, power of, to compel answer in a particular way.

Speaker has no power to compel the answer to a question to be given in a particular way unless the question is couched not in a language which is unparliamentary.

Progs: 7th February, 1947, Vol. LXXII, No. 1, p. 75.

Speaker, power of, to decide admissibility.

The Speaker has the power to decide as to the admissibility of a question and his decision is final.

Progs: 11th February, 1947, Vol. LXXII, No. 1, p. 99.

Questions, withdrawal of.

A question can be withdrawn by the questioner with the leave of the Speaker. No leave of the House is necessary.

Progs: 1st March, 1947, Vol. LXXII, No. 2, p. 1.

RULES.

Resolution regarding rules placed before the Assembly.

If resolutions regarding rules which have been laid before the Assembly are sought to

be moved, the Speaker may fix such time for a discussion of such resolutions as he thinks necessary.

Progs: 6th February, 1947, Vol. LXXII, No. 1,
p. 36.

UNPARLIAMENTARY LANGUAGE.

“Devil.”

The word “devil” is unparliamentary.

Progs: 28th February, 1947, Vol. LXXII, No. 1
p. 524.

APPENDIX.

(1) Ruling on the Points of Order raised by Mr. Bimal Comar Ghose in connection with the presentation of the Supplementary Estimates.

11th March, 1947.

MR. SPEAKER: Order, order. The two points of order raised yesterday in connection with the presentation of the Supplementary Estimates may briefly be stated as follows:—(1) presentation of the Supplementary Estimates after the expenditure to which estimates relate have been incurred in part or in whole, and (2) impropriety and irregularity of Grants Nos. 20 and 22 in respect of Heads of Grants Nos. 37 and 38 of the Annual Budget.

As I said yesterday, the points are not new in this House although Mr. Bimal Comar Ghose contended that his second point of order was new. I shall presently show that the subject matter of Mr. Ghose's second point of order is not without precedent in this House. So far as the first point of

order is concerned it was dealt with elaborately on previous occasions. While it is a sound principle to expect that the Supplementary Estimates should be placed before the House before any expenditure is incurred, the House has to take into consideration the practical difficulties in fulfilling the expectation. Whatever may be the plain meaning of the expression "estimated amount of that expenditure" occurring in section 81 of the Government of India Act, 1935, the interpretation has got to be given with reference to rule 17(1) of the Governor's Rules made under section 84 of the said Act. In that rule the expression "supplementary statement of expenditure" without reference to estimates contemplates certain expenditure being incurred before the Supplementary Estimates are presented. It is, however, desirable that the Supplementary Estimates should be placed before the House at an earlier stage of the year, if for unavoidable reasons Government is not compelled to come towards the close of the year. In this connection the argument advanced by the Hon'ble the Finance Minister seems to be reasonable, so far as the Supplementary Estimates of this year are concerned, and in view of the assurance given by him and the practice prevailing in

this House for a very long time, I do not think there is any necessity for giving any direction from the Chair.

Regarding the second point it is no doubt a wholesome principle that the Supplementary Estimates should be presented either (1) for a further grant to an existing service in addition to the sum already voted for the current financial year; or (2) for a grant caused by a fresh occasion for an expenditure that has arisen since the presentation of the sessional estimates. In English practice the presentation of the Supplementary Estimates for a grant caused by a fresh occasion for expenditure is possible and the circumstances under which such presentation should be made are not exhaustive. It seems impossible in practice to establish any distinction between "new service not included in the ordinary estimates of the year" and "new matter not included in the original estimates of the year". Application in practice of embodying a new matter is governed by paragraphs 2 and 9 of Standing Order No. 14 of the House of Commons as quoted by Mr. Ghose. There discussion is allowed in the Committee. In our House also discussion is allowed on Supplementary Estimates presented before the House, and as such the

House has the right of discussion of a new matter, if any. The effect of the Supplementary Estimates, as has been presented before the House, is not to upset the financial proposal placed before the House in the Annual Budget nor is there any curtailment of the primary control of the House on the expenditure. This may be objectionable in principle though often unavoidable in practice. There is a precedent in this House which may be found on reference to the proceedings, dated the 31st March, 1941, volume 59, pages 131-164. Government presented before the House a Supplementary Estimate for a considerable amount for the year 1940-41 on the 3rd February, 1941. This estimate did not contain any sum under the head "57—Miscellaneous". Subsequently on the 31st March, 1941, Government again presented before the House a second Supplementary Estimate for only one item, namely, under the head "57—Miscellaneous"—Sub-head J—Contributions containing an estimate of rupee one. In the explanatory memorandum Government noted that this demand of rupee one was made for the purpose of obtaining the assent of the Legislature to the payment of a contribution to the Calcutta Mayor's Fund for the relief of London air-raid victims. The

House granted the supply under this new sub-head dealing with a new matter at the fag end of the year which could have been included in the annual financial statement of the coming year which was following immediately. So there is no irregularity in view of the precedent of this House. Mr. Ghose has also objected to the irregularity in respect of the demand for 38—Medical, Grant No. 22. No objection can be taken by the House for inclusion of any item under a major head for administrative convenience and purpose. Propriety or otherwise of the course adopted lies with the administrative departments. Members are not entitled to alter the destination of a grant under rule 107(2) of our rules and as such the objection does not stand. /

2. Ruling on the Point of Order raised by D. N. Datta regarding relevancy of Amendment.

MR. SPEAKER: Yesterday when Mr. Luke was moving an amendment to a certain clause of the Bill, a point of order was raised by Mr. Datta that the amendment was not in order and it was not permissible. I have considered the matter carefully and I give my decision thereon.

It may be stated that under rule 42(1) of the Legislative Assembly Procedure Rules an amendment must be relevant to, and within the scope of, the question to which it is proposed. That means amendments will be out of order if they are not relevant to the Bill. A Bill which is limited in aim, scope and object cannot by means of amendments create any more extension of right beyond the principles and provisions of the Bill. It is also not correct to insert new principles beyond those which a Bill seeks to affirm or enact, but an amendment which cannot be properly proposed to a clause of a Bill and not relevant to it having regard to subject matter and context is irrelevant to the clause itself though it may be possible to have the amendment as a new clause if within the scope of the Bill.

Here in the proposed amendment the honourable member seeks to insert a new clause and it is quite permissible to have the amendment, if it can be shown that the proposed amendment is within the scope of the Bill. This amendment appears as clause 55 of the introduced Bill. What does the amendment propose to do? It appears that there is a proposal to extinguish the rights with respect to certain lands held by non-agricultural tenants. In this view of the fact it is within the scope of the Bill as the scope of the Bill is to make certain provisions relating to the law of landlord and tenant in respect of certain non-agricultural tenancies in Bengal. In the preamble the expression is "to make better provision relating to the land of landlord and tenant" which means betterment of the lot of the landlord as well as of the tenant. The new clause seeks to better the lot of the landlord. It cannot, therefore, be held that the proposed clause is outside the scope of the Bill. It is for the House to decide whether better provision is to be made with respect to the landlords.

The scope of a Bill is to be determined with reference to its preamble, its aims and objects and with due regard to the citations and provisions in the Bill itself. The law

connotes the whole field of law and therefore provision for extinguishment of rights of tenants in non-agricultural land tenancies by such landlords by acquisition of such interest is within the scope of this Bill and a Civil Court can require them to sell their interest on an application if made by landlords. In the Bengal Tenancy Act there is a section almost similar to the present one, namely, section 84 standing in the Act, which, I believe, has not been challenged as yet as one outside the scope. There the provision has been made for acquisition of land for building and other purposes through a Civil Court on the application of the landlord of a holding. The preamble of the Bengal Tenancy Act intended to amend certain enactments relating to the law of landlord and tenant and the section 84 was inserted to provide acquisition of land for certain purposes. It appears from the amendment that attempt is made to see that non-agricultural tenant holding certain lands will have to face claim for acquisition of such land for industrial purposes on a application through a Civil Court if made by the landlord in extinguishment of the rights.

So the proposed amendment is in order with one restriction under the Government

of India Act, 1935. It requires sanction under section 299(3) of the Government of India Act. The sanction has been given by the Governor in his discretion, and there is no further bar to move it.

A point also was raised with respect to the proposed new clause 52B saying that if this clause be accepted, there will be a conflict of decision which has been already given by the House. This clause appears as clause 56 of the introduced Bill. In this clause the words "Notwithstanding anything elsewhere" appear. So this clause overrides other provisions of the Bill and makes a special case. If this clause be carried, no other clause is hit and there is no conflict of decision. This clause makes a special case, exempted from, the general provision for which a non-agricultural tenant shall not be liable to be ejected from his land.

The amendments are, therefore, in order.

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